

**Enrolled Minutes of the Ninetieth Regular or Special Meeting
For the Twenty-Eighth Highland Town Council
Special Meeting/Concurrent with Study Session
Monday, May 20, 2019**

The Special Meeting of the Highland Town Council was called to order at 6:30 p.m. at the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana, in the plenary meeting chambers. The Town Council President, Steve Wagner, presided and the Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings. The meeting was opened with the Acting Town Council President leading the Pledge of Allegiance to the Flag of the United States of America.

Silent Roll Call: Present on roll call were Councilors Mark Herak, Konnie Kuiper, and Steve Wagner. Councilor Bernie Zemen and Councilor Dan Vassar were absent with prior notice. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Officials Present: Tara Tauber, Tauber Law Offices; John M. Bach, Public Works Director and Kathy DeGuilio-Fox were also present.

Additional Officials Present: Larry Kondrat, Board of Waterworks Directors; Susan Murovic of the Advisory Board of Zoning Appeals; and Ed Dabrowski, IT Consultant (contract) were also present.

Special Orders:

1. *Action to ratify calling the special meeting/Study session concurrently, pursuant to HMC Section 2.05.130(E).*

Councilor Kuiper moved to ratify the calling of the special meeting and study session as a concurrent meeting. Councilor Herak seconded. Upon a roll call vote, there were three affirmatives and no negatives. The motion passed. The meeting was authorized and ratified.

2. *Presentation by the Public Works Director regarding the rates and charges associated with the solid waste management program shown in the introduced Ordinance No. 1698. The Public Works Director handed out the following memorandum:*

May 20, 2019

To: Town Council
From: John M. Bach, Public Works Director
Re: Proposed Increase
Solid Waste Management Fees

1. On March 19, 2019, the Board of Sanitary Commissioners accepted a bid from Republic Services, LLC for a new, four (4) contract with two (2) optional 1-year extensions.

2. The new rate in the first year of the Contract is \$17.96 per month per household, which is a 16% increase over the final year of the previous contract. The rate is composed of a fixed base rate that increases 4% over the term of the contract and a Monthly Rate Adjustment (\$0.77/mo.) in the first year of the contract. The Monthly Rate Adjustment is recalculated on the anniversary date of the contract and is based upon the Recycle Processing Charge calculated by the Municipal Recycle Facility.

3. Monthly Rate Adjustment Calculation

No. of Collections/month (2.17) x Average wt. (Tons) (0.008825) x Recycling Processing Charge (\$/Ton)

In the first year of the contract the Recycling Process Charge Annual Average was \$40.00/ton

$$2.17 \text{ Collections per month} \times 0.008825 \text{ Ton} \times \$40/\text{Ton} = \$0.77/\text{Month}$$

4. The Board opted to accept the optional bid in lieu of an annual fixed rate (plus annual 4% increases) over the term of the contract, which was \$1.00 less than the fixed rate bid. The decision realized a savings of \$97,068 in the first year of the Contract. Should Recycle Process Charges escalate to an unreasonable cost, the Town could elect to discontinue the collection and disposal of recyclables and the Annual Rate Adjustment would be \$0.00/month.

5. At their May 7, 2019 Special meeting, the Board of Sanitary Commissioners adopted a resolution to amend the solid waste management fees associated with the Solid Waste Management Program and have forwarded the resolution to the Town Council for consideration.

6. The proposed customer rate in the first year of the contract is \$23.89/month and breaks down as follows:

<u>\$17.19</u>	Solid Waste Collection (4% Annual Increases)
<u>\$0.77</u>	Monthly Rate Adjustment for Recyclables Processing (recalculated annually)
<u>\$5.67</u>	Town Provided Services for Solid Waste (4% Annual Increase)

\$0.26 Tree Services (4% annual Increase)

7. Rate would go into effect on July 1, 2019 and would be amended on the contract anniversary date in subsequent years during the term of the contract.

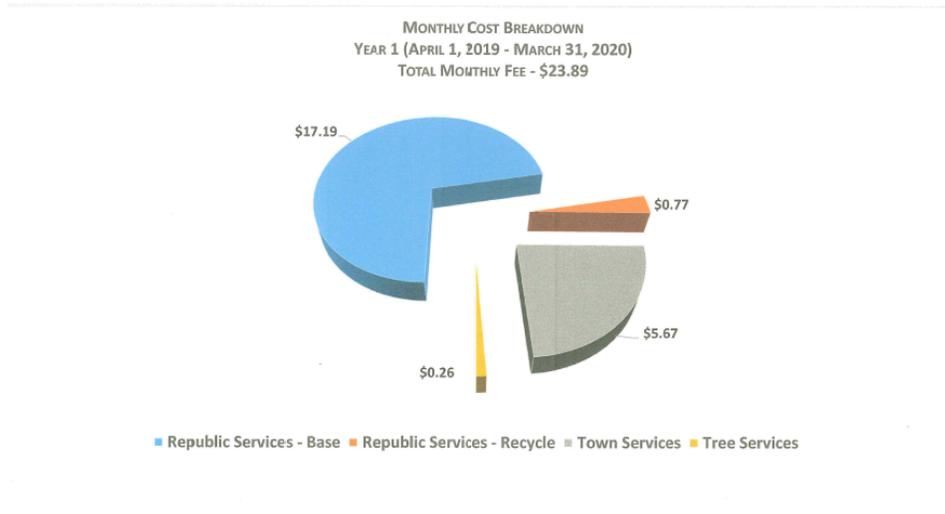
8. The Board determined to eliminate low-volume (formerly Senior Citizen rate), which had been in place for many years. Republic provided the same bid for both 95 gallon and 65 gallon. The Contract is a take-all service, with some exclusions, (medical waste, hazardous waste, construction debris, one large item per week, etc) and in many cases, persons with low-volume rates were often found to put out extra trash for collection outside the smaller carts provided for low volume customers. 35 and 65 gallon carts will continue to be available for customers; however, all customers will be charged the same rate.

The Public Works Director described further how the public rate was devised and that it is designed to support several services as part of the solid waste management program, including weekly curbside solid waste collection and disposal, bi-weekly recycling services, on demand branch collections, twice seasonal leaf collections, and some tree removal.

The Public Works Director also indicated that there a lower volume discount has been eliminated in this new rate schedule. He further noted creation of a special rate for recycling services that each year can be adjusted upward or downward as a tracker for the costs that the vendor imposes on the Town for this service. It was described as a pass-through cost.

The Public Works Director, Councilor Kuiper and Councilor Herak engaged in a colloquy regarding whether the recyclable materials were collected and

diverted from the waste stream or were instead dumped in landfills. The Public Works Director indicated that he has visited the transfer site of the provider and believed that the provider was trying in good faith to segregate and collect for recycling recyclable materials. The Public Works Director also offered the following graph to further explain the rate composition and the costs it was covering:



- 3. Introduced Ordinance No. 1698:** An Ordinance to Amend Chapter 12.15 of the Highland Municipal Code, By Amending Solid Waste Service Fees set Forth in Subdivision (g) of Section 12.15.090 of the Municipal Code and particularly Modifying or Amending Certain Other Provisions for Technical Clarity and Correctness. *(Councilor Zemen introduced the ordinance at its meeting of Monday, May 13, 2019. There was no further action. The Town Council can take further action at this meeting.)*

Councilor Herak moved the passage and adoption of Introduced Ordinance No. 1698. Councilor Kuiper seconded. Upon a roll call vote, there were three affirmatives and no negatives. The motion passed. The ordinance was adopted. It was noted that the rates would not go into effect for the current year until July 1.

ORDINANCE No. 1698
of the
TOWN of HIGHLAND, INDIANA

AN ORDINANCE TO AMEND CHAPTER 12.15 OF THE HIGHLAND MUNICIPAL CODE, BY AMENDING SOLID WASTE SERVICE FEES SET FORTH IN SUBDIVISION (G) OF SECTION 12.15.090 OF THE MUNICIPAL CODE AND PARTICULARLY MODIFYING OR AMENDING CERTAIN OTHER PROVISIONS FOR TECHNICAL CLARITY AND CORRECTNESS.

WHEREAS, The Sanitary District of Highland is governed by its Board of Sanitary Commissioners, pursuant to the provisions of IC 36-9-25 et seq; and

WHEREAS, IC 36-9-25-9 specifically provides that the Board of Sanitary Commissioners shall manage and control all works of the district and may purchase, acquire, construct, reconstruct, operate, repair and maintain all sewage works; and

WHEREAS, The Board of Sanitary Commissioners in performing its duties, may adopt resolutions, rules and by-laws that are necessary to carry out the provisions of IC 36-9-25 including repealing and amending them consistent with the Sanitary District Law; and

WHEREAS, IC 36-9-25-11 specifically provides that the Board of Sanitary Commissioners may fix fees for disposal of sewage and other waste discharged into the sewerage system, including -- structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, *solid waste*, sewage, storm drainage, and other drainage of a municipality, and may change fees from time to time in order to produce revenues sufficient to pay operation, maintenance and administrative expenses; and

WHEREAS, IC 36-9-25-9 expressly provides that *the board shall collect and remove garbage, ashes, and other waste materials to prevent the pollution of watercourses within the district and to protect the public health;*

WHEREAS, Pursuant to Section 12.20.360 of the Highland Municipal Code, entitled, *Annual Review*, the Board of Sanitary Commissioners has studied the current rates and charges of the district and has determined that the rates and charges associated with solid waste management services should be modified; and

WHEREAS, The Board has determined that establishing rates to support the costs associated with the *Solid Waste Management Program*, is necessary to provide sufficient revenues for operation, maintenance, and replacements to the program; and

WHEREAS, IC 36-9-25-11(e) provides that a change of fees may be made in the same manner as fees were originally established; however, if a change is made substantially pro-rata for all classes of service, hearing or notice is not required, but approval of the change by ordinance of the municipal legislative body is required;

WHEREAS, The Town of Highland through its Department of Public Sanitation and Sanitary District provides *solid waste management services* that include, weekly curbside solid waste collection, every other week curbside recycling, seasonal leaf collection, optional weekly large appliance disposal and collection, central electronics disposal, and on-demand branch collection;

WHEREAS, The Town of Highland through its Department of Public Sanitation and Sanitary District provides *solid waste management services for which the utilization is measurable and for which costs for administration, management and service provision are realized and the cost basis for these service elements has changed;*

WHEREAS, The Board of Sanitary Commissioners approved a contract with Republic Services of Indiana at its meeting of March 19, 2019 pursuant to the procedures set forth in IC 36-9-30 et seq., and IC 36-9-25 et seq.;

WHEREAS, The Board conducted the proper public hearing on May 7, 2019 at which it determined that the schedule of fees for Solid Waste Management services required modification in order to remain just, equitable and sufficient to support the costs associated with the program, and did pass a resolution to establish use rates for all classes of users for Solid Waste management services; and,

WHEREAS, The Board did transmit the resolution and the suggested ordinance for the adoption of the rates and charges for Solid Waste Management Program, and does request that the Town Council approve the rates and charges and adopt the ordinance presented,

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Highland, Indiana, as follows:

Section 1. That the following provisions and associated rates and charges for the disposal of sewage and other waste discharged into the sewerage system, *including solid waste*, subject to IC 36-9-25-11(c) be approved;

Section 2. That subdivision (G) of Section 12.15.090 of the Highland Municipal Code be repealed in its entirety and amended with a successor subdivision, to be styled as Section 12.15.090 subdivision (G) which shall read as follows:

12.15.090 Solid waste management fees and services

(G) The solid waste management and associated fees shall be charged according to the following schedule and shall remain in effect as indicated until such time as they may be modified or rescinded by passage and adoption of an ordinance, pursuant to the terms of IC 36-9-25 et seq.:

Solid Waste Management Fees Schedule

monthly solid waste management fees

(1) For the period beginning July 1, 2019:

(a) Qualified dwelling unit – 95 gallon refuse cart:	\$23.12 monthly
(b) Plus a Rate Adjustment for Recycling Services, Charged monthly:	77 ¢

(2) For the period beginning April 1, 2020:

(a) Qualified dwelling unit – 95 gallon refuse cart:	\$23.99 monthly
--	-----------------

- (b) Plus a Rate Adjustment for Recycling Services, charged monthly: *Fixed pursuant to Section 12.15.093*
- (3) For the period beginning April 1, 2021:
- (a) Qualified dwelling unit – 95 gallon refuse cart: \$24.94 monthly
(b) Plus a Rate Adjustment for Recycling Services, charged monthly: *Fixed pursuant to Section 12.15.093*
- (4) For the period beginning April 1, 2022:
- (a) Qualified dwelling unit – 95 gallon refuse cart: \$25.95 monthly
(b) Plus a Rate Adjustment for Recycling Services, charged monthly: *Fixed pursuant to Section 12.15.093*
- (5) For the period beginning April 1, 2023:
- (a) Qualified dwelling unit – 95 gallon refuse cart: \$26.98 monthly
(b) Plus a Rate Adjustment for Recycling Services, charged monthly: *Fixed pursuant to Section 12.15.093*
- (6) For the period beginning April 1, 2024:
- (a) Qualified dwelling unit – 95 gallon refuse cart: \$28.06 monthly
(b) Plus a Rate Adjustment for Recycling Services, charged monthly: *Fixed pursuant to Section 12.15.093*

Section 3. That Chapter 12.15 of the Highland Municipal Code be amended by the establishment of a new section to be styled as **Section 12.15.093** which shall read as follows:

12.15.093 Recycling Services Rate Adjustment Tracker.

(A) In addition to the forgoing charges set forth in Section 12.15.090, a rate adjustment will be charged, fixed annually and charged monthly, to support the costs of recycling services. This fee may increase or decrease, shall be modified if required on the dates indicated in Section 12.15.090;

(B) During the term of the current term of the curbside solid waste and recycling collection vendor/contractor (CONTACTOR) agreement, the Average Recycling Process Charge (ARPC) shall be recalculated based upon the monthly Recycling Process Charge (RPC) determined and reported monthly by the Municipal Recycling Facility (MRF) to the department of public sanitation and sanitary district.

(C) The ARPC will be based upon the preceding twelve month average of the RPC and form the basis for the calculation of the Rate Adjustment for Recycling Services. For the period beginning July 1 through March 31, 2020, the Rate Adjustment for Recycling Services shall be fixed as set forth in Section 12.15.090(1)(b) of this code.

(D) The Rate Adjustment for Recycling Services reflects variable costs for recycling processing and recyclables markets to be calculated as follows:

(i) Rate Adjustment for Recycling Services = Number of Collections per month (2.17) x Average weight of recyclables per unit (17.65) divided by 2,000 x ARPC;

(E) The Recycling Processing Charge (RPC) is determined and reported monthly by the Municipal Recycling Facility (MRF) and the Average Recycling Processing Charge is the preceding twelve month average, (April through March), shall be fixed as set forth in Section 12.15.090(1)(b) of this code. This rate will remain in effect each rate period unless and until it is changed owing to the recalculation described in this code section. The re-calculation will be conducted each year.

Section 4. That Section 12.15.070 of the Highland Municipal Code be amended by repealing it in its entirety and replacing it with a successor section to be styled as Section 12.15.070 which shall read as follows:

12.15.070 Garbage containers; Placement.

(A) Every tenant or owner of a dwelling or dwelling unit within the town of Highland and the boundaries of the sanitary district shall be provided suitable and sufficient containers for the collection and disposal of solid waste and garbage.

(B) Refuse containers will be provided in two sizes to support the service volume, standard service. Standard service containers will be 95 gallons. ~~Reduced service containers will be 65 gallons. Service fees will be differentiated for each.~~ The provided refuse containers must be used as they are designed to be emptied by standard mechanical equipment installed on the collection vehicle. Said containers shall be kept clean, neat, and sanitary at all times.

(C) The provided container(s) for the deposit of refuse shall be placed for collection at ground level by the tenant or resident served within the right-of-way of a street or alley at the discretion of the board of

sanitary commissioners for dwellings, ~~and~~ shall be accessible and shall not more than 15 feet from the side of the street or alley from which collection is to be made. The containers shall be placed in an orderly and sanitary manner on the days designated for the collection and removal of refuse by the board. The containers shall be removed to the rear of the premises and out of sight as viewed from the street after collection is made and on the same date of collection.

(D) Refuse containers shall remain with the dwelling unit even upon changes of residents or transfers of ownership.

Section 5. That subdivisions (A)(6),(8), and (9) of Section 12.15.010 of the Highland Municipal Code be amended by repealing them in their entirety and replacing them with successor subdivisions section to be styled as subdivisions (A) (6), (8), (9), (10), (11) and (12) Section 12.15.010 which shall read as follows:

12.15.010 Definitions.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(6) "Recyclables" means paper, cardboard, **newspaper and all inserts**, magazines, glass bottles and jars (clear, brown, green), tin cans, steel cans, aluminum cans, plastic containers **(1-2-3 liter plastic pop containers, milk and water jugs, any liquid laundry detergent bottles)** or other such items that the town and **its recycling collection vendor** deems to be recyclable in nature.

(8) "Rubbish" **is limited to** ~~means~~ nonrecyclable putrescible and non-putrescible solid waste, both combustible and noncombustible, including but ~~not limited to~~ paper, cardboard, bottles, tin cans, steel cans, aluminum cans, glass **clippings, small amounts of branches (not to exceed one (1) cubic yard) cut in three foot lengths and securely bundled, and one large item per week** ~~bedding, rags, crockery, wood, such as furniture and appliances.~~

(9) "Yard waste" means compostable organic waste resulting from the maintenance of lawns, gardens, landscapes and trees including grass clippings, tree branches, hedge trimmings, garden waste, and leaves. **Pursuant to IC 13-20-9 et seq., the deposit of vegetative matter in solid waste landfill is prohibited except for:**

- (a) grass,
- (b) woody vegetative matter that is less than three (3) feet in length and bagged, bundled, or otherwise contained; or
- (c) de minimis amounts of vegetative matter that are less than three (3) feet in length, bagged, bundled, or otherwise contained; and not set out separately for collection and disposal; "Yard waste" does not include sod, dirt, rock, sand, etc.

(10) Refuse Cart is a container made of plastic equipped with suitable handles, tight fitting covers, and wheels used for the purpose of disposing household refuse and yard waste. Refuse Carts shall be watertight and of a type approved by the Town with a capacity of 95 gallons, 65 gallons or 35 gallons, capable of being emptied by the use of hydraulic operators affixed to the refuse collection equipment. Refuse Carts shall be a blue in color. Refuse Carts shall be provided and maintained (as it relates to normal wear and tear) by the curbside collection vendor/contractor. Refuse Carts shall be replaced by the curbside collection vendor/contractor, at its sole expense, if damaged and cannot be repaired; provided that such damage is caused by normal wear and tear or contractor negligence of handling the cart.

(11) Garbage Container is a container made of plastic or metal equipped with suitable handles and tight-fitting cover, and/or plastic garbage bags or similar receptacles. Containers shall be watertight and of a type approved by the Town with a capacity of not less than twenty (20) gallons and not more than thirty-two (32) gallons. Garbage Containers are provided by the household and shall be kept clean, neat, and sanitary at all times.

(12) Recycle Cart is a container made of plastic equipped with suitable handles, tight fitting covers, and wheels. Recycle Carts shall be watertight and of a type approved by the Town with a capacity of 95 gallons, 65 gallons, or 35 gallons, capable of being emptied by the use of hydraulic operators affixed to the refuse collection equipment. Carts shall be a blue in color, with a contrasting colored lid or other means of distinction, which readily identifies the cart as a Recycle Cart. Recycle Carts shall be provided and maintained (as it relates to normal wear and tear) by the curbside collection vendor/contractor. Recycle Carts shall be replaced by the curbside collection vendor/contractor, at its sole expense, if damaged and cannot be repaired; provided that such damage is caused by normal wear and tear or contractor negligence of handling the cart.

Section 6. That Section 12.15.150 of the Highland Municipal Code be amended by repealing it in its entirety and replacing it with a successor section to be styled as Section 12.15.150 which shall read as follows:

12.15.150 Roll-off containers; General Penalty Provision

(A) **Private Roll-Off Containers.** No person, firm, corporation, or organization shall place a roll-off container, POD, or closed container upon a public street or alley ~~without first securing a permit from the town. Application shall be made to the town of Highland and the department of public sanitation~~

on prescribed forms that shall include the name, location, size, type, dates and times container shall be placed upon the public way; name and address of the company supplying said container; and the description of the debris to be disposed. All containers placed upon a public street or alley shall be equipped with reflectors and flashing lights for the safety of the public.

(B) Any company that provides roll-off container service shall have on file with the town of Highland and the department of public sanitation, a form of surety in the amount not less than \$5,000, to cover any damages to pavement or public infrastructure that may be damaged while unloading, loading, or placing of roll-off containers.

(C) Permit fees for the placement of a roll-off container upon a public street may be collected by the office of the clerk-treasurer or the office of the public works director, according to the following schedule:

- (1) Up to three days: \$25.00.
- (2) Each additional day: \$10.00

(B) **General Penalty for Violations in this chapter.** Except as otherwise provided, any person, entity or organization who shall violate any provisions of chapter 12.15, shall be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the violations clerk of the ordinance violation bureau in the amount set forth in the admissions clerk payable offenses schedule in HMC [9.85.060](#);

(C) If such person, entity or organization shall violate any provisions of chapter 12.15, and there is a failure to satisfy the civil violation as set forth in Chapter [9.85](#) HMC, then such violations shall be construed as justiciable offenses and, upon conviction or a finding of liability, shall be subject to a fine of not less than \$100.00 per violation, nor more than \$2,500. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

Section 7. That Section 9.85.060 (B) of the Highland Municipal Code be amended by adding the following provision, which shall read as follows:

Code Section	Violation	Fine
12.15.150(A)	Roll off containers On public ways or alleys	All offenses \$150.00

Section 8. That pursuant to IC 36-9-25-11(e), the passage and adoption of this ordinance shall constitute legislative body approval of the fees and charges set forth in this ordinance as previously approved by the Board of Sanitary Commissioners;

Section 9. That the fees and charges imposed by the passage and adoption of this ordinance shall become and be effective upon all users whose property is within the district, upon its passage and adoption, pursuant to its terms and effective dates set forth herein;

Section 10. That upon its passage and adoption, the provisions of this ordinance shall be effective immediately, evidenced by the executive's signature in the manner prescribed by IC 36-5-2-10(a), subject to any requirements for publication, which, may be required, pursuant to IC 36-5-2-10.

Sanitary District Rate Statement. The forgoing provisions set forth in Sections 2, 3 and 6 were captured in resolution form, introduced in the meeting of the Board of Sanitary Commissioners of April 16, 2019, where it was ordered for a public hearing, all pursuant to IC 36-9-25-11. The public hearing was conducted at the meeting of May 7, 2019. Following the hearing, the resolution was passed and adopted by the Board of Sanitary Commissioners by a vote of 4 in favor and 0 opposed.

Introduced and Filed by Councilor Zemen on the 13th day of May 2013. Consideration on same evening of introduction was not considered pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 20th Day of May 2019, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 3 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

/s/Steven Wagner, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1;IC 36-5-6-5)

4. *Meeting Schedule for May and June.* The Town Council and the Clerk-Treasurer discussed the meeting schedule for June 2019 for either a cancellation of June 10 or a rescheduling of it.

The Clerk-Treasurer explained that the owing to the schedule for annual State Board of Accounts school in Fort Wayne, the plenary meeting for June 10 needed to be rescheduled. It was noted that without four members of the Town Council, rescheduling would require ratification at the next meeting, pursuant to HMC Section 2.05.130(E).

After discussion the following was rendered subject to a formal ratification vote of the Town Council at its next plenary meeting:

The Plenary meeting of Monday, May 27 would be cancelled owing to Memorial Day. The Town Council President will act to cancel this, pursuant to HMC Section 2.05.130(D).

The plenary meeting of Monday, June 10 would be rescheduled for Monday, June 3, 2019, pursuant to HMC Section 2.05.130(E).

5. *Humane Indiana Project*. Pat Popa "OWL you need is Love Project for Humane Indiana". Ms. Popa The Town Council discussed the project and how it will encourage visitors and "art tourism" as maps will be provided and visitors encouraged. She reminded that the Owl can be purchased without an artist being provided for \$1,325 and with an artist to design and paint the statute for \$1,950.

The Town Council informally discussed the use of Innkeeper Tax Funds to participate in the project. The Town Council informally discussed proceeding with a contribution and acquiring an owl with an artist.

Adjournment. There being no further business for the special meeting, the Town Council President declared the special Town Council meeting/ concurrent study session of Monday, May 20, 2019 adjourned at 7:03 O'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer